



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201507039

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

NOV 20 2014

Uniform Issue List: 408.03-00

T:EP:RA:TS

Legend:

Taxpayer A =

IRA X =

IRA Y =

Company B =

Company C =

Amount E =

Employee F =

Dear :

This is in response to your request dated August 4, 2014 in which your authorized representative requests, on your behalf, a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

Taxpayer A represents that she initiated a "direct rollover" from IRA X to IRA Y. She further represents that her failure to accomplish a timely rollover was due to financial institution error on the part of Company B.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A maintained IRA X at Company C and IRA Y at Company B. Taxpayer A initiated a transfer of Amount E from IRA X to IRA Y on September 27, 2012. On October 9, 2012, Company B erroneously deposited Amount E into the taxpayer's brokerage account instead of IRA Y. Company B has provided a written statement confirming its error.

Company C issued a 1099-R to Taxpayer A for Amount E reflecting the transaction as a taxable distribution rather than a transfer. An Employee of Company B, Employee F, indicated on February 19, 2013 that the Form 1099-R was incorrect as there had been a direct rollover from Company C to Company B. Company C indicated that it would coordinate with Company B in correcting the Form 1099-R. As a result of her belief that the Form 1099-R would be corrected, Taxpayer A excluded Amount E from her taxable income for 2012.

In May of 2014, Taxpayer A received a Notice CP2501 letter from the Internal Revenue Service (the "Service") dated May 12, 2014 regarding Amount E. Taxpayer A contacted Company B and discovered that although she had directed Company B to deposit Amount E in IRA Y it had been erroneously deposited in another non-IRA brokerage account. Taxpayer A represents that Amount E has not been used for any other purpose.

Based on the facts and representations, you request a ruling that the Service waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the unintended distribution of Amount E.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the

portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3) of the Code).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) of the Code do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

Rev. Rul. 78-406, 1978-2 C.B. 157, provides that the direct transfer of funds from one IRA trustee to another IRA trustee does not result in a payment or distribution of the funds for purposes of section 408(d)(1) of the Code and are not includible in the gross income of the participant.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was due to financial institution errors on the part of Company B.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount E from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to transfer Amount E to an IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the

contribution of Amount E will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact (ID#)
at () - . Please address all correspondence to SE:T:EP:RA:T3 .

Sincerely yours,



Laura B. Warshawsky, Manager,
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: